

JUDGE DAVID BRIONES

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

GLEN GRIMSLEY,

)

Plaintiff,

)

v.

)

MIGUEL BARRON

)

Defendant.

)

Cause No.

EP 10CV0018

ORIGINAL COMPLAINT

TO THE COURT:

COMES NOW GLEN GRIMSLEY, Plaintiff herein, and files his Original Complaint and for cause of action would show the following:

I.
Parties

1. GLEN GRIMSLEY ("Grimsley") is an individual residing in El Paso, Texas.
2. MIGUEL BARRON ("Barron") is an individual residing in El Paso, Texas and can be served with process at 3030 Gateway Blvd. E., El Paso, Texas 79905.

II.
Jurisdiction and Venue

3. This is an action for contribution from the payment of trust fund penalty liability arising under 26 U.S.C. §6672(d). This Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1340.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1331(b) because: Defendant reside in El Paso, El Paso County, Texas, and (2) a substantial part of the events or omissions giving rise to the claim occurred in El Paso, El Paso County, Texas.

III.
Facts

5. Pan American General Hospital, LLC, d/b/a Southwestern General Hospital ("Pan American"), located in El Paso, Texas, failed to pay federal payroll taxes for portions of calendar years 2002 and 2003.

6. On October 9, 2003, Pan American sought bankruptcy protection in the United States Bankruptcy Court for the Western District of Texas, El Paso Division, Case No. 03-32693. Thereafter Pan American made substantial payments to the Internal Revenue Service (the "Service") to reduce its payroll tax liability. The case was closed on October 9, 2003.

7. Pan American again filed for liquidation in the same bankruptcy court, Case No. 07-30935. That case is still open.

8. In April, 2009, Grimsley paid the Service \$405,535.12 to reduce the payroll taxes of Pan American, and two other responsible parties paid other amounts, thereby satisfying any 26 USC 6672(a) liability imposed by the Service.

IV.
Trust Fund Recovery Penalty Contribution

9. Grimsley re-alleges and incorporates herein the allegations contained in paragraphs 8-13 as if fully set forth herein.

10. Pursuant to 26 U.S.C. §6672(d), Defendant is liable to Grimsley for his proportionate share of the penalty paid by Grimsley to the Service.

V.
Prayer for Relief

WHEREFORE, Plaintiff prays for judgment and relief as follows:

- a. That Defendant be ordered to pay damages in accordance with 26 U.S.C. §6672(d);
- b. That Defendant be ordered to pay pre- and post-judgment interest, as well as all costs associated with this action; and
- c. That Grimsley have such other and further relief, at law and in equity, to which he may be justly entitled.

Respectfully submitted,



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